IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3623 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AGARSINHJI JAMASINHJI RANA

Versus

BHALAGAMADA KHEDI VISHAYAK VIV-IDH KARYAKARI SAHAKARI MANDLI

Appearance:

1. Special Civil Application No. 3623 of 1994

MR MINESH C DAVE for Petitioner No. 1 (absent)

MR SURESH M SHAH for Respondent No. 1

MR MEHUL S SHAH for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA

Date of decision: 05/08/2004

ORAL JUDGEMENT

#. This is an old petition of 1994, which is pending for

final disposal since last 10 years before this court. On last two occasions, this court itself had adjourned the matter. Today, neither there is sick note nor leave note of Mr.Dave. As usual, Mr.Dave was not present when the matter was called out. Under the circumstances, matters was required to be dismissed in absence of the learned counsel for the petitioner. However, it would be an exercise in futility as ordinarily matters are restored on the application filed by the learned counsel for the petitioner and then they are decided on merits. Therefore, the present petition is decided with the due assistance of Mr.Shah, who was present for the respondents, on merits.

#. The petitioner was appointed as Reliever Clerk in the respondent-Society as per the order at Annexure-B with effect from 1.11.1974. His services were terminated by oral order dated 16.9.1978. Hence, reference (LCS) No.179 of 1989 was filed before the Labour Court, Surendranagar i.e. after a period of almost 11 years from the oral termination. Before the Labour Court, it was contended that his appointment was for a fixed period of 3 years under the byelaws of the respondent. Therefore, his services were terminated after completion of period of three years. It was also submitted that after his services were terminated, the petitioner had worked with different societies at Bhoika, Natwargadh etc. where he was getting more salary, therefore, initially he did not raise any grievance and for the first time in 1984, after a period of 6 years of his termination, he made demand and thereafter after a period of 5 years Reference was made to the Labour Court in 1989. But, on this ground the Labour Court clearly found that the petitioner was getting more salary in other societies, therefore, he had not made any grievance for a period of six years. The Labour Court has also found that looking to the facts of the case, he was getting more salary, therefore, he was not entitled for reinstatement in service and at the most he can be paid unemployment allowance for a period of 5 years and accordingly, the Labour Court passed that order in his favour. This has been challenged by the petitioner by way of this petition under Article 227 of the Constitution of India.

#. Scope of writ petition under Article 227 of the Constitution of India is very narrow and limited. On peculiar facts of this case, when the Labour Court thought it fit not to pass an order of reinstatement and awarded compensation for a period of 5 years for unemployment to the petitioner with notice pay, then this

court cannot interfere with such discretionary order passed by the Labour Court, under its supervisory jurisdiction under Article 227 of the Constitution of India.

In view of the above discussion, this petition fails and is hereby dismissed. Rule is discharged with no order as to costs.

(B.J.Shethna, J.)

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